

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: **Pertti KONTIO** : Confirmation No.: **4539**
Serial No.: **10/671,003** : Examiner: **Michael Roswell**
Filed: **September 25, 2003** : Art Unit: **2173**
For: **USER INTERFACE ON A PORTABLE ELECTRONIC DEVICE**

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

This Reply Brief is in response to the Examiner's Answer of December 12, 2007, and in furtherance of the Appeal Brief filed September 20, 2007:

REMARKS

Appellant responds to the Examiner's Answer of December 12, 2007 by reiterating the arguments set forth in the Appeal Brief filed September 20, 2007, and addresses the points raised by the Examiner as follows.

In particular, on page 6 of the Examiner's Answer, the Office states that the tap-and-hold gesture and its resulting context menu of *Chew* teach at least "a message associated with [a] command is provided if the contact is longer than a predetermined time," recited in step 3 of claim 1. However, this interpretation by the Office ignores the other limitations recited in claim 1. The designated area recited in claim 1 is where the icon that symbolizes the command is displayed. The icon is also capable of providing a message associated with the command. The Office asserts that displaying the context menu corresponds to the command, and the context menu itself corresponds to the message associated with the command. However, appellant respectfully submits that according to that interpretation, the same gesture would be used to both execute the command and display the message associated with the command. If this is the case, then *Chew* cannot disclose or suggest the limitations recited in claim 1, because different gestures are used to execute the command and to display the message associated with the command. In addition, the message recited in claim 1 is associated with the command, not the result of the command as is the case with the Office's interpretation and application of *Chew*. Therefore, for at least these reasons, appellant respectfully submits that the cited references fail to disclose or suggest that a message associated with the command is provided if the contact is longer than a predetermined time, as recited in claim 1.

In addition, on page 7 of the Examiner's Answer the Office states that while *Chew* does not explicitly teach step 5¹ as recited in claim 1, the Office asserts that *Chew* teaches a "move" gesture where the user drags the stylus outside of the context menu, and therefore it would have been obvious to utilize this "move" gesture with any command related to a context menu, such as the closing of the context menu. *See Chew* column 6, lines 48-51. The Office asserts that the activation of the "move" gesture to dismiss the context menu would teach step 5 of the claim 1. However, *Chew* specifically states that the tap-and-hold gesture is only terminated after the stylus has been on the screen for a period of time, the stylus move event is not a termination

¹ Step 5 of claim 5 recites "moving the physical object off the designated area while keeping the physical object on the screen after step 3 to end the message."

event. *See Chew* column 6, lines 62-64. Instead, the move event is examined to determine if the stylus has moved outside of the contact area, and if so, the user is probably trying to perform a drag operation and not a context menu gesture. *See Chew* column 6, lines 53-56. Therefore, the “move” gesture is not used in *Chew* to end a message or context menu, since the context menu is not even displayed if the user performs a drag operation. *Chew* only discusses whether slight movements of the stylus are within the parameters of the context menu gesture, i.e. whether or not the context menu should be displayed. However, *Chew* does not disclose or suggest that the “move” gesture may be used to close the context menu, as asserted by the Office. To the contrary, *Chew* states that moving the stylus outside of the contact area means that the user does not want to open the context menu, and instead has performed a drag operation instead of a context menu gesture. *See Chew* column 2, lines 3-4 (a context menu gesture is recognized and the application displays a context menu). In addition, *Chew* specifically states that “the stylus move event is not a termination event.” Furthermore, the Office has provided no rational as to why it would be obvious to modify the “move” gesture discussed in *Chew* to be used in the manner recited in claim 1 for step 5. Therefore, *Chew* does not disclose that the move gesture dismisses the context menu, and therefore appellant respectfully submits that the limitations recited in step 5 are not obvious in view of *Chew*.

For at least the reasons discussed above, appellant respectfully submits that the claims are not disclosed or suggested by the cited references.

Conclusion

In view of the above, it is respectfully submitted that the rejection of the claims is in error and must be reversed. Such reversal is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

Date: 8 February 2008

s/Keith R. Obert/
Keith R. Obert
Attorney for the Appellant
Registration No. 58,051

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
Bradford Green, Building Five
755 Main Street, P.O. Box 224
Monroe, CT 06468
Telephone: (203) 261-1234
Facsimile: (203) 261-5676
USPTO Customer No. 004955